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United States General Accounting Office

Report to the Committee on Indian
Affairs, U.S. Senate

May 1996

FINANCIAL MANAGEMENT

BLA's Tribal Trust Fund Account Reconciliation Results



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Accounting and Information
Management Division

B-266127

May 3, 1996

The Honorable John McCain
Chairman
The Honorable Daniel K. Inouye
Vice Chair
Committee on Indian Affairs
United States Senate

This report responds to your August 1995 request that we review the Bureau of Indian Affairs' (BIA) efforts to reconcile and certify tribal trust fund accounts. Specifically, you asked us to provide our overall observations on the results of the reconciliation effort, including (1) whether the reconciliation report clearly communicated the results of the reconciliation and fully disclosed known limitations, (2) whether the certification contract addressed the extent to which the reconciliation provided as complete an accounting as possible, and (3) the tribes' responses to BIA's reconciliation report.

When the Congress established the Indian trust fund account reconciliation requirement in the Interior Department's fiscal year 1987 supplemental appropriations act, it directed BIA to provide an accounting to the account holders and the Congress. This requirement was expanded in Interior's fiscal year 1990 appropriations act, which provided for an independent certification that the reconciliation was as complete as possible. Until BIA undertook the trust fund account reconciliations in May 1991, the accounts—some of which were 50 to 100 years old—had never been reconciled.¹ The reconciliation process was brought to a close during the fall of 1995, and, in January 1996, a report was issued to each tribe on the results associated with its accounts.

Results in Brief

Although BIA spent over 5 years and about \$21 million in a massive effort to locate supporting documentation and reconcile trust fund accounts, tribal accounts could not be fully reconciled or audited due to missing records and the lack of an audit trail in BIA's systems. The January 1996 report package that BIA provided to each tribe presented the results of the reconciliation procedures performed by its contractor for fiscal years 1973 through 1992, BIA's reconciliations for fiscal years 1993 through 1995, and a transmittal letter which described the information provided and BIA's plans

¹At the direction of the Congress, we studied and investigated tribal receipts and disbursements for fiscal years 1923 through 1951; however, as reported in our February 1, 1929, and our April 1, 1951, reports, we did not attempt to reconcile discrepancies due to inadequate records.

to meet with tribes to discuss the reconciliation results. However, because BIA's report package did not explain or describe the numerous changes in reconciliation scope and methodologies or the procedures that were not performed, the limitations of the reconciliation were not evident. Further, the certification work—which was to verify that the reconciliation was performed in accordance with BIA's reconciliation contract requirements but not that the reconciliation was as complete an accounting as possible—was not completed due to cost and time constraints. Tribes have expressed concerns about the scope and results of the reconciliation process. BIA may be unable to resolve these concerns. Also, cost considerations and the potential for missing records made individual Indian account reconciliations impractical. A legislated settlement process could be used as a framework for resolving questions about both tribal and individual Indian account balances.

Background

In response to tribes' concerns that BIA had not consistently provided them with statements on their account balances, that their trust fund accounts had never been reconciled, and that BIA planned to contract with a third party for management of trust fund accounts, the Congress established the requirement in the Interior Department's fiscal year 1987 supplemental appropriations act that BIA reconcile trust fund accounts before they could be transferred to a third party. In Interior's fiscal year 1990 appropriations act, the Congress required that BIA reconcile the accounts to the earliest possible date. In a March 1990 decision interpreting this requirement, we concluded that "Congress's evident purpose is to obtain, to the greatest extent possible, reliable baseline balances in the various accounts."

In 1990, BIA decided to address the legislative requirement that it reconcile trust fund accounts by contracting for a reconstruction of historical transactions, to ensure that tribal and individual accounts were reconciled as accurately as possible back to the earliest possible date based on available records. In May 1991, BIA awarded a reconciliation contract valued at \$12 million over a 5-year period to a major independent public accounting firm. Following a preliminary assessment of the feasibility of reconciling accounts to the earliest date possible, BIA's reconciliation contractor reported in March 1992 that records were available to research tribal accounts for fiscal years 1973 through 1992. BIA's contractor also reported that due to the level of effort and associated cost and the potential for missing documentation, it was not feasible to reconcile Individual Indian Money (IIM) accounts for individual Indians.² In addition,

²BIA also maintains some IIM accounts for tribes.

BIA determined that its contractor should use alternative procedures, rather than specific transaction testing, to verify tribal account balances where insufficient documents were available to reconstruct the accounting or where more efficient approaches were identified.

In addition to requiring that the accounts be reconciled to the earliest possible date, Interior's fiscal year 1990 appropriations act required an independent certification that the reconciliation resulted in the most complete reconciliation possible. In September 1993, BIA awarded a certification contract for \$1.2 million to another major independent accounting firm to verify that the reconciliation procedures were performed in accordance with the reconciliation contract. BIA terminated the certification contract as of November 30, 1995. As of February 14, 1996, BIA had obligated over \$21 million for the 5-year reconciliation effort, including \$18.3 million for reconciliation work and \$2.8 million for certification work.

The American Indian Trust Fund Management Reform Act of 1994 required the Secretary of the Interior to provide tribes with reconciled account statements as of September 30, 1995. To meet this requirement, BIA included reconciled account statements, which it prepared for fiscal years 1993 through 1995, in the reconciliation report package for each tribe. The act also requires the Secretary of the Interior to report to the Senate Committee on Indian Affairs and the House Committee on Resources by May 31, 1996, (1) methodologies used to reconcile the accounts, (2) whether tribes accept or dispute their reconciled account balances, and (3) how the Secretary plans to resolve any disputes.

BIA's Office of Trust Funds Management (OTFM)³ was responsible for carrying out the reconciliation and certification effort. As of the end of fiscal year 1995, OTFM reported that it managed and accounted for approximately \$2.6 billion in Indian trust funds—about \$2.1 billion for about 1,500 tribal accounts and about \$453 million for nearly 390,000 IM accounts. The balances in the trust fund accounts have accumulated primarily from payments of claims; oil, gas, and coal royalties; land use agreements; and investment income. Fiscal year 1995 reported receipts to the trust accounts from these sources totaled about \$1.9 billion, and disbursements from the trust accounts to tribes and individual Indians totaled about \$1.7 billion.

³On February 9, 1996, a Secretarial Order implemented Interior's Office of the Special Trustee for American Indians, which was established by the American Indian Trust Fund Management Reform Act of 1994. The Order also transferred OTFM from BIA to the Office of the Special Trustee.

According to the Reconciliation Project Manager, OTFM will not be able to complete planned regional meetings with tribes on the reconciliation results until July 20, 1996. As a result, the Secretary of the Interior plans to meet the May 31, 1996, reconciliation reporting requirement in the American Indian Trust Fund Management Reform Act by providing an interim report to the House and Senate Committees by that date and a final report after the regional meetings are completed.

Previous GAO Findings

Our past testimonies and reports anticipated that when the reconciliation was completed, there might not be agreement on reconciled account balances. Our April and May 1991 testimonies⁹ stated that it would be difficult to locate records to support the reconciliation effort and that following the reconciliation, some or all accounts might need to be settled. Our June 1992 report¹⁰ recommended that BIA develop a proposal for reaching a satisfactory resolution of the trust account balances with account holders. Our report also stated that the BIA reconciliation contractor's latest cost estimate at that time for reconciling individual Indian accounts ranged from \$180 million to \$281 million and that because many accounts are not reconcilable, alternative approaches to reach agreement on account balances would be necessary. In March 1995, we testified¹¹ that further tribal reconciliation work would not provide reasonable assurance that the account balances are accurate and that the time had come for the Congress to consider legislating a settlement process that could include both tribal and individual Indian accounts.

Following our March 1995 testimony, your Committee and the House Committee on Resources, Subcommittee on Native American and Insular Affairs, asked us to prepare, for discussion purposes, draft legislation to establish a settlement process. We issued this draft legislation in September 1995.¹² Reports and testimonies related to our work are listed at the end of this report.

⁹Bureau of Indian Affairs' Efforts to Reconcile and Audit the Indian Trust Funds (GAO/T-AFMD-91-2, April 11, 1991) and Bureau of Indian Affairs' Efforts to Reconcile, Audit, and Manage the Indian Trust Funds (GAO/T-AFMD-91-6, May 20, 1991).

¹⁰Financial Management: BIA Has Made Limited Progress in Reconciling Trust Accounts and Developing a Strategic Plan (GAO/AFMD-92-38, June 18, 1992).

¹¹Financial Management: Indian Trust Fund Accounts Cannot Be Fully Reconciled (GAO/T-AIMD-95-94, March 8, 1995).

¹²Indian Trust Fund Settlement Legislation (GAO/AIMD/OGC-95-237R, September 29, 1995).

Conclusions

Although OTFM made a massive attempt to reconcile tribal accounts, missing records and systems limitations made a full reconciliation impossible. Because BIA does not know the universe of transactions or leases, it does not know the total amount of receipts and disbursements that should have been recorded. Tribes have raised a number of concerns about the adequacy and reliability of the reconciliation results. If follow-up meetings with tribes do not resolve these concerns, the settlement process which we have previously recommended could be used as a framework for resolving disagreements on account balances.

In addition, due to cost considerations and the potential lack of supporting documentation, reconciliations for individual Indian accounts were not performed, and no alternative procedures were developed to verify these account balances. Since any attempt to reconcile these accounts would be costly and the results would be limited, these accounts could be included in the settlement process.

Agency Comments and Our Evaluation

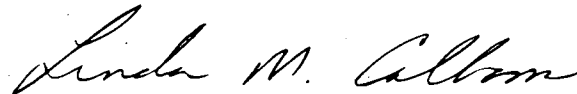
The Interior Department's comments consisted primarily of numerous technical clarifications, which we incorporated where appropriate. The comments neither agreed nor disagreed with our overall message and conclusion that the accounts could not be fully reconciled and that a settlement process could provide a useful framework for resolving disagreements about account balances. However, BIA disagreed with our position that limitations in reconciliation scope and methodologies needed to be disclosed to provide useful information on the completeness of the reconciliation results.

The reconciliation requirement as legislated by the Congress was to reconcile the accounts to the earliest possible date and ensure, through independent certification, that the reconciliation was as complete as possible. Further, the Congress, in the American Indian Trust Fund Management Reform Act, required BIA's report to include a description of the reconciliation methodology and the account holder's conclusion as to whether the reconciliation represents as full and complete an accounting of its funds as possible. Therefore, in order for the tribes and the Congress to understand the reconciliation results and determine whether the reconciliation represents as full and complete an accounting as possible, it was important that BIA explain the limitations in reconciliation scope and procedures, including procedures that were not performed or were not completed.

Our report addresses several areas where our work identified significant reconciliation limitations and changes in procedures and methodologies that we believe should have been disclosed by BIA. These areas include the lack of a known universe of transactions and leases, the use of issue papers to approve changes in reconciliation scope and procedures due to unforeseen circumstances, and reconciliation procedures that could not be completed or were not performed. This additional information provides an important context for understanding the reconciliation results.

We are sending copies of this letter to the House Committee on Resources; the Secretary of the Interior; the Special Trustee for American Indians; the Assistant Secretary, Indian Affairs; the Director of the Office of Management and Budget; and other interested parties.

Please contact me at (202) 512-9508 if you or your staff have any questions concerning this report. Appendix III lists major contributors to this report.



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Director, Civil Audits

Related GAO Products

Indian Trust Fund Settlement Legislation (GAO/AIMD/OGC-95-237R, September 29, 1995).

Financial Management: Indian Trust Fund Accounts Cannot Be Fully Reconciled (GAO/T-AIMD-95-94, March 8, 1995).

Financial Management: Native American Trust Fund Management Reform Legislation (GAO/T-AIMD-94-174, August 11, 1994).

BIA Reconciliation Recommendations (GAO/AIMD-94-138R, June 10, 1994).

Financial Management: Status of BIA's Efforts to Reconcile Indian Trust Fund Accounts and Implement Management Improvements (GAO/T-AIMD-94-99, April 12, 1994).

Financial Management: BIA's Management of the Indian Trust Funds (GAO/T-AIMD-93-4, September 27, 1993).

Financial Management: Creation of Bureau of Indian Affairs' Trust Fund Special Projects Team (GAO/AIMD-93-74, September 21, 1993).

Financial Management: Status of BIA's Efforts to Resolve Long-Standing Trust Fund Management Problems (GAO/T-AFMD-93-8, June 22, 1993).

BIA Appropriation Language (on Tolling the Statute of Limitations on Certain Indian Claims) (GAO/AFMD-93-84R, June 4, 1993).

Financial Management: Status of BIA's Efforts to Resolve Long-Standing Trust Fund Management Problems (GAO/T-AFMD-92-16, August 12, 1992).

Indian Issues: GAO's Analysis of Land Ownership at 12 Reservations (GAO/T-RCED-92-75, July 2, 1992).

Financial Management: Problems Affecting BIA Trust Fund Financial Management (GAO/T-AFMD-92-12, July 2, 1992).

Financial Management: BIA Has Made Limited Progress in Reconciling Trust Accounts and Developing a Strategic Plan (GAO/AFMD-92-38, June 18, 1992).